

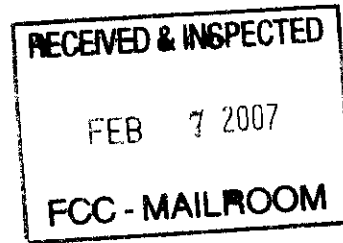
WC 07-36
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FEB 14 2007

February 5, 2007

Marlene H. Dortch, Secretary
Wireline Competition Bureau - CPD - 214 Appls
Federal Communications Commission
PO Box 358145
Pittsburgh PA 15251-5145

RE: Application of BCN Telecom, Inc. to Acquire Certain Assets of Marathon Communications Corporation d/b/a Marathon USA Involving Authorized International and Domestic Carriers

Dear Ms. Dortch:

On behalf of BCN Telecom, Inc. ("BCN") and Marathon Communications Corporation d/b/a Marathon USA ("BCN" and together with Marathon, "Applicants"), enclosed please find an original and seven (7) copies of the above-referenced Application.

Also enclosed are a completed Fee Remittance Form 159 and a check in the amount of \$965.00 to cover the requisite filing fee.

Pursuant to Rule 47 CFR § 63.04(b), Applicants submit this filing as a combined international Section 214 transfer of control application and domestic Section 214 transfer of control application ("Combined Application"). Applicants have filed the Combined Application with the International Bureau through the IBFS filing system.

Please date stamp the extra copy and return same in the postage-paid envelope attached thereto. If you have questions or concerns with respect to the Combined Application, please contact my assistant, Teresa Denemy, or me at (269) 381-8844.

Very truly yours,

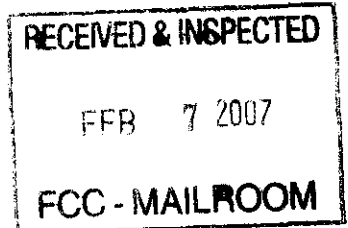
EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

Patrick D. Crocker

PDCLtd

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



In the Matter of

BCN TELECOM, INC.
Assignee,

MARATHON COMMUNICATIONS CORPORATION
D/B/A MARATHON USA
Assignor,

Application for Consent to Assign Certain
Assets of a Company Holding an
International Authorization and a Blanket
Domestic Authorization Pursuant to
Section 214 of the Communications Act of
1934, as Amended

WC Docket No. _____

IB File No. _____

APPLICATION

BCN Telecom, Inc. ("BCN") and Marathon Communications Corp. d/b/a Marathon USA ("Marathon USA" and together with BCN, the "Applicants"), pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. §214 (the "Act"), and Sections 63.04 and 63.24(e) of the Commission's Rules, 47 CFR §§ 63.04, 63.24(e), hereby request authority to enable BCN to acquire all assets related to and comprising the customer base of Marathon USA (the "Business").

Pursuant to the terms of an Asset Purchase Agreement ("Agreement") executed on or about August 1 2006, BCN will acquire all assets of Marathon USA relating to existing residential and business customers of any type or kind that constitute the Business. Accordingly, the Applicants request that the Commission approve the transfer of these assets, including the telecommunications customer base of Marathon USA ("Customers") and contractual and other rights with respect to customer accounts to BCN. The assets being transferred do not include any Section 214 authorizations. The Applicants note that BCN

already holds authority under Section 214 of the Act to provide domestic and international telecommunications services.¹

The proposed transaction is not expected to result in any loss or impairment of service to the Customers. Customers will continue to receive their existing services at the same rates, terms, and conditions that they have prior to the transfer and any future changes in the rates, terms, and conditions of service will be made consistent with Commission requirements. The only material change will be in the Customers' service provider. Notice of the change will be provided to Customers in accordance with Section 64.1120 of the Commission's Rules.

Pursuant to Section 63.04(b) of the Commission's Rules, 47 CFR § 63.04(b), the Applicant's are filing a combined application for the proposed transfer of assets. The Applicants provide below the information required by Section 63.24(e)(2) of the Commission's Rules 47 CFR § 63.24(e)(2). **Exhibit A** provides the additional information requested by Section 63.04(a)(6) through (a)(12) of the Commission's Rules, 47 CFR § 63.04(a)(6)-(12).

The Applicant's respectfully request streamlined treatment of this Application pursuant to Sections 63.03 and 63.12 of the Commission's Rules, 47 CFR §§ 63.03 and 63.12. This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) of the Commission's Rules, 47 CFR § 63.03(b)(2)(i), because (1) after the proposed transaction, BCN (including its affiliates) will have a market share in the interstate, interexchange market of substantially less than 10 percent, and will provide competitive services exclusively in areas served by a dominant local carrier not a party to the transaction; and (2) BCN and Marathon USA (including affiliates) are not currently dominant with respect to any domestic service, and will not become dominant with respect to any domestic service after consummation of the proposed transaction. The Application also qualifies for streamlined treatment under Section 63.12 because (1) BCN is not affiliated with a dominant foreign carrier; (2) BCN will not become

¹ BCN received its international Section 214 authority in File Nos. ITC-214-19951228-00061 (granted March 11, 1996) and ITC-214-19960529-00214 (granted July 22, 1996). BCN holds blanket authority to provide domestic interstate service pursuant to Section 63.01 of the Commission's Rules.

affiliated with any foreign carrier as a result of the proposed transaction; and (3) none of the other provisions contained in Section 63.12(c) of the Commission's Rules, 47 CFR § 63.12, apply.

The Applicants provide the following in support of this request:

I. APPLICANTS

A. BCN Telecom, Inc. (FRN: 0014562128)

BCN is a non-dominant carrier providing international (as well as intrastate and interstate) long distance services through the resale of purchased services from various facilities-based carriers. BCN is headquartered at:

550 Route 202-206
Bedminster, NJ 07921-0760
Telephone: (908) 470-4700
Fax: (908) 470-4707

BCN is a wholly-owned subsidiary of Telecom Acquisition Company, LLC ("TAC"), which is a New Jersey limited liability company and a holding company. The following entities hold a 10 percent or greater equity interest in TAC. No other entity holds a 10 percent or greater equity interest in TAC under the Commission's attribution rules.

Richard Boudria
c/o Telecom Acquisition Company, LLC
550 Route 202-206
Bedminster, NJ 07921-0760
Citizenship: U.S.
Principal business: telecommunications management
Percent equity: 48.5%

William P. Mulcahy
c/o Telecom Acquisition Company, LLC
550 Route 202-206
Bedminster, NJ 07921-0760
Citizenship: U.S.
Principal business: telecommunications management
Percent equity: 11.5%

Currently, BCN is authorized as a reseller of intrastate interexchange telecommunications services throughout the United States, with the exception of Alaska, and has resold and/or facilities-based local exchange authority in 22 states.

B. Marathon Communications Corp. d/b/a Marathon USA (FRN: 0006773956)

Marathon USA, a privately-held corporation organized under the laws of the State of Georgia and is headquartered at:

8014 Cumming Highway, Suite 403-357
Canton, GA 30115
Telephone: (770) 887-5210

The following entity holds a 10 percent or greater beneficial ownership in Marathon USA. No other entity holds a 10 percent or greater equity interest in Marathon USA under the Commission's attribution rules.

Philip C. Wahlbom
8014 Cumming Highway, Suite 403-357
Canton, GA 30115
Citizenship: U.S.
% of Ownership: 100%
Principal Business: Telecommunications

Currently Marathon USA has authority to provide intrastate, interexchange service throughout the United States.

After the closing, Marathon USA will not retain its FCC 214 authorizations² or its state telecommunications authorizations.

II. DESCRIPTION OF TRANSACTION

Pursuant to an Asset Purchase Agreement ("Agreement") executed on or about August 1, 2006, Marathon USA agrees to sell, convey, assign and transfer to the Buyer, and BCN agrees to purchase and accept from the Seller, the "Sale Assets" summarized as follows: (1) the customer base; (2) all customer deposits or prepayments; (3) all supporting documentation and

² Marathon USA received its international Section 214 authority in File Number ITC-214-19960405-00141, granted May 31, 1996. Marathon USA holds blanket authority to provide domestic interstate service pursuant to Section 63.01 of the Commission's Rules.

customer account information and files; (4) all customer letters of authorization; (5) all Seller contact numbers as set forth in the Agreement; (6) all Post Start Date accounts receivable; and (7) all cash, including deposits and cash collateral, marketable securities and other cash equivalents relating to or arising out of the operation of the Business on or after the Start Date.

After the Closing, BCN will provide telecommunications services to the Customers pursuant to its own telecommunications authorizations. After consummation of the transactions, Marathon USA will surrender its authorization.

The proposed transfer of customers to BCN will have no adverse impact on the Customers. Customers will continue to receive their existing services at the same rates, terms, and conditions that they have prior to the transfer and any future changes in the rates, terms, and conditions of service will be made consistent with Commission regulations. To avoid Customer confusion and ensure a seamless transition, the Applicants will provide advance written notice to the affected Customers at least thirty (30) days prior to the transfer, explaining the change in service provider in accordance with applicable Commission and state regulations for changing a customer's presubscribed carrier. BCN will file the required notice with the Commission in CC Docket No. 00-257 pursuant to Section 64.1120 of the Commission's Rules, 47 C.F.R. § 64.1120, to comply with the Commission's slamming requirements.

III. PUBLIC INTEREST STATEMENT

The transaction contemplated by the Agreement will serve the public interest. BCN is a strong company that will continue to provide high quality services to the Customers. The purchase of Marathon USA's assets will strengthen BCN, enable it to expand and better ensure that it remains a viable long-term competitor in the telecommunications market.

At the same time, the proposed transfer of assets does not present any anticompetitive issues. The Applicants emphasize that, following the transfer the Customers will continue to receive services from an experienced and qualified carrier, which services will be consistent with the quality of services currently provided by Marathon USA. Marathon USA primarily resells

long distance services to business and residential customers and BCN has extensive experience in providing these services. The Applicants anticipate that Customers will experience a seamless transition of service provider. Further, these Customers will be sufficiently notified of the transaction and their rights. The contact for Customers and Commission inquiries will be:

Rich Nacchio
BCN Telecom, Inc.
550 Route 202-206
Bedminster, NJ 07921-0760
(888) 866-7266

The proposed transfer does not present any competitive issues. The Applicants note that there are a number of other carriers operating in each market, including the incumbent carrier, which controls a substantial market share.

In sum, grant of the Application will serve the public interest by strengthening the competitive position of BCN without negatively impacting either the Customers or competition in the markets in which the Applicants operate.

IV. INFORMATION REQUIRED BY § 63.24(e) OF THE COMMISSION'S RULES

Applicants submit the following information pursuant to Section 63.24(e) of the Commission's Rules, including the information requested in Section 63.18:

- (a) Name, address, and telephone number of Applicants:

BCN Telecom, Inc. (Assignee)
550 Route 202-206
Bedminster, NJ 07921-0760
Telephone: (908) 470-4700

Marathon Communications Corp. d/b/a Marathon USA (Assignor)
8014 Cumming Highway, Suite 403-357
Canton, GA 30115
Telephone: (770) 887-5210

- (b) BCN is a corporation organized under the laws of New Jersey and is a wholly owned subsidiary of TAC, a New Jersey limited liability company and holding company. Marathon USA is a privately-held corporation organized under the laws of Georgia.

- (c) Correspondence concerning this Application should be sent to:

Patrick D. Crocker
Early, Lennon, Crocker & Bartosiewicz, P.L.C.
900 Comerica Building
Kalamazoo, MI 49007
Telephone: (269) 381-8844
Facsimile: (269) 381-8822
Email: pcrocker@earlylennon.com

With copies to:

Richard F. Nacchio, Director
Legal & Regulatory Affairs
BCN Telecom, Inc.
Telephone: (908) 470-4780
Facsimile: (908) 470-4770
Email: rnacchio@bcntele.com

(d) BCN received its international Section 214 authority in File Nos. ITC-214-19951228-00061 (granted March 11, 1996) and ITC-214-19960529-00214 (granted July 22, 1996). BCN holds blanket authority to provide domestic interstate service pursuant to Section 63.01 of the Commission's Rules.

(h) As indicated in Section I.A. of the Application, BCN is a wholly-owned subsidiary of TAC. The following entities hold a 10 percent or greater equity interest in TAC. No other entity holds a 10 percent or greater equity interest in BCN under the Commission's attribution rules.

Richard Boudria
c/o Telecom Acquisition Company, LLC
550 Route 202-206
Bedminster, NJ 07921-0760
Citizenship: U.S.
Principal business: telecommunications management
Percent equity: 48.5%

William P. Mulcahy
c/o Telecom Acquisition Company, LLC
550 Route 202-206
Bedminster, NJ 07921-0760
Citizenship: U.S.
Principal business: telecommunications management
Percent equity: 11.5%

BCN states that following the consummation of the transaction, no officer or director of BCN will also be an officer or director of any foreign carrier.

(i) As evidenced by the signatures to this Application, BCN certifies that (1) BCN is not a foreign carrier and is not affiliated with a foreign carrier, and (2) BCN will not become a foreign carrier or become affiliated with a foreign carrier post-close.

(j) As evidenced by the signatures to this Application, BCN certifies that, through its acquisition of the assets of Marathon USA, it does not seek to provide international telecommunications services to any destination country where (1) BCN is a foreign carrier; (2) BCN controls a foreign carrier; (3) any entity owns more than 25 percent of BCN, controls BCN, or controls a foreign carrier; and (4) two or more foreign carriers (or Applicants that control foreign carriers) own, in the aggregate, more than 25 percent of BCN and are parties to, or the

beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.

(k) Not applicable.

(l) Not applicable.

(m) Not applicable.

(n) As evidenced by the signatures to this Application, BCN certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route, and that BCN will not enter into such agreements in the future.

(o) As evidenced by the signatures to this Application, BCN certifies that, pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules, they are not subject to denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

(p) Applicants request streamlined processing of this Application pursuant to Section 63.12 of the Commission's Rules 47 C.F.R. § 63.12. This Application qualifies for streamlined treatment under Section 63.12(c) of the Commission's Rules, because (1) BCN is not affiliated with a dominant foreign carrier; (2) BCN will not become affiliated with any foreign carrier as a result of the proposed transaction; and (3) none of the other scenarios outlined in Section 63.12(c) of the Commission's Rules 47 C.F.R. § 63.12 apply.

V. INFORMATION REQUIRED BY § 63.04(b) OF THE COMMISSION'S RULES

In accordance with the requirements of Section 63.04(b) of the Commission's Rules, the additional information required for the domestic Section 214 transfer of control application is provided in Exhibit A.

VI. CONCLUSION

Based on the foregoing, Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by grant of this Application.

Respectfully submitted,

BCN Telecom, Inc.

By: 

Patrick D. Crocker, Attorney

VERIFICATION

I, Patrick D. Crocker, am the Attorney of BCN Telecom, Inc., and am authorized to make this verification on its behalf. I do hereby verify that I have read the foregoing Application and the statements made therein are true, correct, and complete to the best of my knowledge, information, and belief.

Executed on the 6th day of February, 2007.

BCN Telecom, Inc.

Patrick D. Crocker

Subscribed and sworn before me this 6th day of February, 2007.

Paul A. Schneid
Notary Public

Kalamazoo County, Michigan
Acting in Kalamazoo County
My Commission Expires: June 24, 2011

EXHIBIT A

Domestic Section 214 Transfer of Control Information

In accordance with the requirements of Section 63.04(b) of the Commission's Rules, 47 C.F.R. § 63.04, regarding the information described in paragraphs (a)(6)-(a)(12) of Section 63.04, Applicants provide the following information in support of their request.

63.04(a)(6): Description of the Transaction

The proposed transaction is described in Section II of the Application.

63.04(a)(7): Description of Geographic Service Area and Services in Each Area

A description of the geographic service areas and services provided in each area is provided in Section I of the Application.

63.04(a)(8): Presumption of Non-Dominance and Qualification for Streamlining

This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) of the Commission's Rules, 47 C.F.R. § 63.03(b)(2)(i). Following the consummation of the proposed transaction, BCN (including its affiliates) will have a market share in the interstate, interexchange market of substantially less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier that is not party to the transaction. Finally, neither BCN nor Marathon USA, nor any affiliate of either company, is dominant with respect to any service it provides.

63.04(a)(9): Other Commission Applications Related to the Proposed Transaction

None.

63.04(a)(10): Special Considerations

None.

63.04(a)(11): Separately Filed Waiver Requests

None.

63.04(a)(12): Public Interest Statement

The proposed transaction is in the public interest for the reasons detailed in Section III of the Application.